



Innovate UK Contracts for Innovation

AGREEMENT

BETWEEN

SECRETARY OF STATE FOR EDUCATION (1)

AND

UGRAPHT LTD (2)

Version Control

Version Number	Revision Date	Summary of Changes
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V8.0	February 23	<i>Additions:</i> Clause Clause 34 Notices <i>Updates:</i> Definitions updated to reflect current law and defined terms used but not previously defined General amendments including to reflect current law in force, include omitted boilerplate provisions and remove duplicate provisions Clause 3.5 – To include risk allocation where Contractor accessing Authority's premises Clause 4 – Updated to reflect appropriate performance mechanism rights Clauses drafting Clauses 10 and 14 – updated to include option for circumstances where Authority is not the funder Clauses 14 to 16 – Amended to reflect the allocation for IPR Clause 27 – Updated the dispute resolution process Clause 22 – amended formatting and updated limitation provisions Revised Schedule A and Sections 4 and 6
V8.1	July 23	Correction to clause 21.4, to reference 21.11 Removal of clause 2.1 – covered under clause 8 Clause 3.5 – new clause to include CPNI
		Clause 16 "Publication" – removed and merged with clause 8 "Publicity and Publication"
V8.2	Nov 23	Request for Information definition added; Grammatical errors amended; Schedule C – foreground IP register added
V8.3	May 2024	The branding and name 'SBRI' has been updated to 'Innovate UK Contract for Innovation'

Section 1 : Form of Agreement

This Agreement is made between

- (1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, Great Smith Street, London, SW1P 3BT acting as part of the Crown [(the "**Authority**")]; and
 - (2) **UGRAPHT LTD** of 64 Abdale Road London, W12 7EU (the "**Contractor**") each a "**Party**"
- and together the "**Parties**".

IT IS AGREED as follows:

- 1 The Contractor will undertake an innovation and development project entitled **AI Catalyst Fund - AI Tools for Education** in accordance with the specification as detailed in Section 3, as part of a competitive research and development in phases project carried out by the Authority under the Pre-Commercial Procurement principles.
- 2 The Authority will pay the Contractor the Approved Cost as set out in Section 4 for:
 - 2.1 undertaking the Project; and
 - 2.2 any assignment of any Intellectual Property rights in the Material to the Authority on behalf of the Crown made pursuant to Clauses 8, 14 and 15 of Section 2.
- 3 No payments will be made by the Authority until the approvals sought pursuant to Clause 3.3 of Section 2 are obtained on an unconditional basis by the Authority.
- 4 Payments made by either Party under this agreement are inclusive of VAT and any other taxes and duties which shall (if applicable) be payable by the Party receiving the payment at the rate and in the manner from time to time prescribed by law.
- 5 This Form of Agreement (Section 1) together with the attached Sections 2 to 6 inclusive are the documents which collectively form the Agreement. If there is any inconsistency between Sections 3 to 6 of the Agreement and this Section 1 or the Terms and Conditions set out in Section 2, the provisions of Section 1 and 2 shall prevail.
- 6 The contract effected by the signing of this Form of Agreement constitutes the whole agreement between the Parties and supersedes all prior negotiations, agreements, representations or understandings between them relating to the subject matter of this Agreement.
- 7 Each Party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty ("**Representation**") of any person (whether a party to this Agreement or not) other than as expressly set out in the Agreement. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
- 8 Nothing in this Agreement shall limit or exclude any liability for fraud.

Signed for and on behalf of the Authority by a duly authorised signatory:

Signature	
Full Name	
Position Held:	Commercial Lead
Date:	28/11/2024

Signed for and on behalf of the Contractor by a duly authorised signatory:

Signature:	
Full Name:	
Position Held:	Founder / CEO
Date:	28/11/2024

SECTION 2 TERMS AND CONDITIONS

1 DEFINITIONS AND INTERPRETATION

1.1 As used in this Agreement the following terms and expressions shall have the meaning ascribed to them below:

"Affected Party" the Party seeking to claim relief in respect of a Force Majeure Event;

"Agreement" means this agreement concluded between the Parties including all sections to it;

"Approved Cost" means the total cost agreed between the Parties for the Project as set out in Section 4;

"Authority" the Party to this Agreement named as such at the beginning of this Agreement

"Authority's Agreement" means a person authorised to represent the Authority in respect of this Representative Agreement;

"Background IP" means Intellectual Property owned or controlled by either of the Parties at the date of this Agreement or which shall at any time thereafter become so owned or controlled otherwise than as a result of the Project under this Agreement;

"Commencement Date" means the date referred to as being the commencement date as set out in Section 3 **25th November 2024;**

"Commercially Sensitive Information" means information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss.

"Competition" The specific Innovate UK Contracts for Innovation competition under which this contract is awarded;

"Completion Date" means the date as referred to as being the completion date as set out in Section 3;

"Confidential Information" means all confidential information (however recorded or preserved) disclosed by a Party or its Representatives to the other Party and that Party's Representatives in connection with this Agreement, including but not limited to:

- (a) any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, suppliers or plans of the disclosing party; and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;
- (b) any information developed by the parties in the course of carrying out this agreement;
- (c) Personal Data;
- (d) any Commercially Sensitive Information.

"Contractor's Representative" Agreement means a person authorised to represent the Contractor in respect of this Agreement and who shall have authority to bind the Contractor in all matters under this

Agreement;

"Contractor's Staff"	means the Contractor's Representative and all employees consultants agents and subcontractors which the Contractor engages in relation to the Project;
"Controller"	has the meaning as defined in the Data Protection Legislation;
"Copyright"	has the meaning ascribed to it by the Copyright, Designs and Patent Act 1988;
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales) including but not limited to government ministers, government departments and their agents, executive agencies and non-departmental public bodies from time to time carrying out functions on its behalf;
"Data"	means information collected and/or used for the purposes of the Research, which can be processed manually, electronically or by other means;
"Data Protection Legislation"	means: (i) the UK Data Protection Legislation; (ii) (to the extent that it applies) any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a Party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and (iii) (to the extent that it applies) the guidance and codes of practice issued by the Information Commissioner and or other relevant regulatory authority;
"Default"	means any breach by a Party to this Agreement of its obligations under this Agreement (including a fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of a Party to this Agreement or its employees, agents or sub-contractors in connection with or in relation to the subject matter of this Agreement and in respect of which such Party is liable to the other;
"EIRs"	the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations;
"FOIA"	means the Freedom of Information Act 2000 (FOI) and any subordinate legislation made under this Act from time to time, together with the Environmental Information Regulations 2004 including, in each case, any guidance and/or code of practice issued by the Information Commissioner or any successor body that may replace it;

"Force Majeure Event"

any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or other natural disaster but excluding any industrial dispute relating to the Contractor or the Contractor's Staff or any other failure in the Contractor's or a Sub-contractor's supply chain;

"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Foreground IP"	means the Intellectual Property developed during the Project;
"HRA"	means the Human Rights Act 1998;
"Information"	has, for the purposes of Clause 29, the meaning given under section 84 of the FOIA;
"Insolvency Event"	means where the Contractor passes a resolution, or the court makes an order that: (i) the Contractor be wound up (otherwise than for the purpose of a bona fide and solvent reconstruction or amalgamation); or (ii) a receiver, manager or administrator on behalf of a creditor is appointed in respect of all or part of the business of the Contractor; or (iii) circumstances arise which entitle a court or creditor to appoint a receiver, manager or administrator or which entitle the court (otherwise than for the purpose of a solvent and bona fide reconstruction or amalgamation) to make a winding up order; or (iv) the Contractor ceases to trade or is unable to pay its debts within the meaning of the Insolvency Act 1986 or any similar event occurs under the law of any other jurisdiction;
"Intellectual Property (IP)"	means patents, inventions (whether or not patentable or capable of registration), trade marks, service marks, copyrights, topography rights, design rights and database rights, (whether or not any of them are registered or registerable and including applications for registration, renewal or extension of any of them), trade secrets and rights of confidence, trade or business names and domain names and all rights or forms of protection of a similar nature which have an equivalent effect to any of them which may now or in the future exist anywhere in the world;
"Key Staff"	means the persons named in Section 5;
"Language"	means the English Language unless otherwise agreed;
"Material"	means any report, executive summary, paper, abstract or other document provided by the Contractor under Clauses 8 and 15;
"Mediation Notice"	has the meaning given to it in Clause 26.3;
"Milestones"	means the milestones described in Section 4 of this Agreement;
"Milestone Dates"	means the milestones date set out in Section 4 of this Agreement;
"Milestone Payments"	means the milestone payments set out in Section 4 of this Agreement;

"Personal Data"	has the meaning as defined in the Data Protection Act 2018 or successor legislation;
"Pre-Commercial Procurement"	means the public procurement of research and development services where the contracting authority or contracting entity does not reserve all the results and benefits of the contract exclusively for itself for use in the conduct of its own affairs, but shares them with the providers under market conditions;
"Prohibited Act"	the following constitute Prohibited Acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage as an inducement or reward for any improper performance of a relevant function of activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this agreement; (c) committing any offence: (i) under the Bribery Act 2010; (ii) under legislation or common law concerning fraudulent acts; or (iii) of defrauding, attempting to defraud or conspiring to defraud the Authority; (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above, if such activity, practice or conduct had been carried out in the UK.
"Project"	means the Research together with the Results;
"Project Period"	means the period commencing on the Commencement Date and ending on the Completion Date or such later date as may be agreed between the Parties unless otherwise determined in accordance with the terms of the Agreement;
"R&D&I Framework"	means the European Commission's Framework for State Aid for Research and Development and Innovation (2014C 198/01);
"Relevant Requirements"	all applicable law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Research"	means the scope of work specified in Section 3;
"Results"	means any Data, or information or other material generated by the Project;
"Retention"	means the sum determined in accordance with Clause 4.3 of this Agreement;
"Request for Information"	means a request for information or an apparent request under any relevant guidance on accessing Government information, FOIA or the EIR.
"Services"	means the services being provided by the Contractor to enable fulfilment of the Project, as more particularly described in Section 3;

"Sub-Contract" any contract or agreement or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;

"Sub-Contractor" any third party with whom:

- (i) the Contractor enters into a Sub-Contract; or
- (ii) a third party under (a) above enters into a Sub-Contract,
or the servants or agents of that third party;

"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;

"Variation"
"Variation to Agreement Form" means a variation to the Agreement agreed in accordance with Clause 6; an agreement in writing in the form appended at Schedule A;

"Working Day" means Monday to Friday, excluding any public holidays in England and Wales; and

"Working Hours" means the period from 9.00am to 5.00pm on any Working Day.

1.2 The interpretation and construction of the Agreement shall be subject to the following provisions:

- 1.2.1 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- 1.2.2 the headings to Clauses are for ease of reference only and shall not affect the interpretation or construction of the Clauses;
- 1.2.3 references to Clauses are references to Clauses in the Section of the Agreement in which they appear, unless otherwise stated;
- 1.2.4 Clauses 2, 3, 8, 9, 25 and 30 in section 2 shall be treated as conditions or fundamental terms of this Agreement, breach of which shall entitle the innocent party to claim damages as well as affirm or terminate the Agreement in accordance with Clause 17.
- 1.2.5 where the context allows, references to male gender include the female gender and the neuter, and the singular includes the plural and vice versa.

2 ADMINISTRATION AND DIRECTION OF THE PROJECT

- 2.1 The Contractor shall ensure that each member of the Contractor's Staff engaged on the Project observes the Conditions of this Agreement and any Variation entered into between the Parties hereto and that the

Contractor's Staff are promptly advised of any consequent changes in the scope of the Agreement or the Project.

- 2.2 Notwithstanding the provisions of Clause 17, the Authority may terminate the Agreement if any of the Contractor's Key Staff are not available for the entire period needed to fulfil their duties in the Project, subject to prior discussion having first been held with the Contractor to attempt to identify and agree a mutually acceptable replacement and where the lack of availability of one or more of the Key Staff causes a material risk to the fulfilment of the delivery objective of the Project.
- 2.3 The objectives of the Project are set out in Section 3. Within such objectives, the Contractor shall, subject to prior consultation with the Authority's Representative where appropriate, at all times be responsible for and in control of the details of the exact programme to be followed and the day-to-day responsibility for carrying out this programme.
- 2.4 The Contractor shall ensure that it communicates in a full, frank and prompt manner with the Authority and such other third parties as may be notified to the Contractor by the Authority. The Contractor shall advise the Authority as required on the Project. In particular, the Contractor must notify the Authority of any proposed deviation from the agreed protocol or if significant developments occur as a study progresses (including, but not limited to, the safety of individuals or the scientific direction).
- 2.5 The Authority reserves the right to terminate this Agreement forthwith:
- 2.5.1 should the Contractor be unwilling or unable for any reason to continue with the Project; or
- 2.5.2 if, in the reasonable opinion of the Authority, the Contractor is consistently failing to achieve an acceptable standard in relation to the Project, and
- where the Authority terminates this Agreement pursuant to this clause, the Authority shall not be obliged to make any further financial payments to the Contractor.

3 OBLIGATIONS OF THE CONTRACTOR AND THE AUTHORITY

- 3.1 The Contractor shall manage and complete the Project in accordance with the specification as set out in Section 3 and applicable law, and shall allocate sufficient resources to the Project to enable it to comply with this obligation.
- 3.2 The Contractor shall meet any performance dates specified in Section 3 or elsewhere in the Agreement. If the Contractor fails to do so, the Authority may, after giving the Contractor not less than 14 days notice (and without prejudice to any other rights it may have):
- 3.2.1 terminate this Agreement in whole or in part without liability to the Contractor;
- 3.2.2 refuse to accept any subsequent performance of the Project which the Contractor attempts to make;
- 3.2.3 hold the Contractor accountable for any loss and additional costs incurred.
- 3.3 The Contractor shall:
- 3.3.1 co-operate with the Authority in all matters relating to the Project;
- 3.3.2 subject to the prior written approval of the Authority, appoint or, at the written request of the Authority, replace on the Project without delay:
- 3.3.2.1 the Contractor's Representative; and
- 3.3.2.2 Key Staff or any member of the Contractor's Staff, who shall be suitably skilled, experienced and qualified to carry out the Project;

- 3.3.3 subject to clause 3.3.2, ensure that the same person acts as the Contractor's Representative throughout the term of this Project;
 - 3.3.4 procure the availability of the Contractor's Representative and Key Staff for the purposes of the Project;
 - 3.3.5 promptly inform the Authority of the absence of the Contractor's Representative and/or Key Staff. If the Authority so requires, the Contractor shall provide a suitably qualified replacement to cover the period of absence;
 - 3.3.6 not make any changes to the Contractor's Representative or the Key Staff without the prior written approval of the Authority, such approval not to be unreasonably withheld or delayed;
 - 3.3.7 ensure that the Contractor's Staff use reasonable skill and care when performing their duties during the Project;
 - 3.3.8 observe, and ensure that the Contractor's Staff observe, all rules and regulations and any other reasonable requirements of the Authority; this shall include and not be limited to ensuring that the Approved Cost shall be utilised in accordance with the Project cost breakdown submitted by the Contractor at Project tender stage covering all Project materials, equipment and any applicable sub-contractor costs;
 - 3.3.9 notify the Authority as soon as it becomes aware of any issues which arise in relation to the Project;
 - 3.3.10 before the Commencement Date obtain, and at all times maintain, all necessary licences and consents and comply with all relevant legislation in relation to the Project;
 - 3.3.11 immediately disclose to the Authority any potential conflict of interest, including where the Contractor may benefit from external advisors who were or have been involved in planning or undertaking the Project or the associated call for tenders;
 - 3.3.12 ensure, as far as reasonably possible, the adoption of open standards and interoperability in the innovative solutions which are achieved as a result of the research services in order to promote early adoption; and
 - 3.3.13 ensure that in relation to the Project and all Project related activities, it acts in accordance with all applicable provisions of the R&D&I Framework and, in the event that there has been a breach of the R&D&I Framework by the Contractor (as reasonably determined by the Authority), the Authority shall be entitled to such recourse as may be reasonable to enable the Contractor and the Authority to comply with the R&D&I Framework. Such recourse shall include and not be limited to a termination of this Agreement and any other remedy legally available to the Authority.
- 3.4 The Contractor acknowledges and agrees that the Authority is entering into this Agreement on the basis that the details of the Project are accurate and complete in all material respects.
- 3.5 The Contractor will take reasonable account of the principles explained on the [UKRI Trusted Research and Innovation](#) page and the guidance issued by the [Centre for the Protection of National Infrastructure](#) (CPNI). Under the UKRI principles the Contractor is expected to have robust arrangements for:
- 3.5.1 assessment of partner suitability
 - 3.5.2 management of information and knowledge sharing
 - 3.5.3 management of commercial applications including intellectual property
 - 3.5.4 compliance with any relevant controls as explained in the [Export Controls Joint Unit](#) pages

The Contractor must also comply with the requirements stated in The National Security and Investment (NSI) Act 2021 and the statutory UK Strategic Export Control Lists.

3.6 The Authority shall:

3.6.1 co-operate with the Contractor in all matters relating to the Project and appoint (and, as it thinks fit, replace) the Authority's Representative in relation to the Project, who shall have the authority contractually to bind the Authority on matters relating to the Project;

3.6.2 provide such information as the Contractor may reasonably request and the Contractor considers reasonably necessary, in order to carry out the Project, in a timely manner, and ensure that it is accurate in all material respects; and

4 ACCOUNTING AND PAYMENTS

4.1 The total amount to be paid by the Authority to the Contractor shall not exceed the amount detailed in Section 4 and shall be paid to the Contractor by Milestone Payments, with the payment of each Milestone Payment being conditional on the Contractor having achieved the appropriate Milestone to the reasonable satisfaction of the Authority. Subject to these limits, the Contractor is free to administer the funds within the terms of this Agreement without further reference to the Authority.

4.2 The Contractor warrants that the Approved Costs represent the Contractor's costs in delivering the Project and do not include profit. The Authority shall be entitled to audit the Contractor's financial records and accounts on an open book basis to confirm the Contractor's compliance with this clause. The Contractor shall promptly notify the Authority if, at any time during the term, its circumstances, knowledge or awareness changes such that it would not be able to repeat this warranty at the time of each Milestone Payment.

4.3 If the Contractor only partially achieves a Milestone by the corresponding Milestone Date, the Authority may, without prejudice to any other right or remedy that the Authority may have (including but not limited to those in Clause 4.5), deduct and retain an amount not more than 50% of that total Milestone Payment. The Retention shall become due and payable to the Contractor upon full achievement of the requisite criteria applicable to the relevant Milestone to the reasonable satisfaction of the Authority, not to be unreasonably withheld or delayed.

4.4 Payments to third parties shall remain the responsibility of the Contractor who shall ensure that such payments are made promptly.

4.5 During the Project Period, payments will be made by the Authority in accordance with dates and amounts specified in Section 4 and within 30 days following the submission of a valid and undisputed invoice. Invoices for Milestone Payments must be submitted within 30 days following the relevant Milestone Date set out in Section 4 to be eligible for payment. The Authority may suspend this payment schedule at any time if in the view of the Authority, acting reasonably, satisfactory progress on the Project has not been maintained, or reports have not been submitted as required under Clauses 8, 12, 13 and 15.

4.6 Subject to the Authority's right in Clauses 4.3 and 4.5 to withhold, deduct and suspend payments, where the Authority disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the amount that remains unpaid shall be determined in accordance with Clauses 26.2 to 26.5 (inclusive). The Contractor shall not suspend the performance of any of its obligations under this Agreement if any payment is overdue.

4.7 The Contractor shall promptly provide supporting evidence as may be reasonably required by the Authority to prove that the Contractor has used the amounts paid in accordance with Section 4 in connection with the Project. The supporting evidence shall clearly identify all Project and associated overhead costs.

4.8 The Contractor shall not make any material changes to the work detailed in Section 3, or the total amount payable under the Agreement, without prior written approval of the Authority.

- 4.9 The Contractor grants to the Authority, any statutory or regulatory auditors of the Authority and to authorised agents the right of reasonable access to (and, if necessary, to copy) the relevant financial records during normal business hours.
- 4.10 The Contractor shall provide all reasonable assistance at all times during the term of the Agreement and during the period of 6 years after termination or expiry of this Agreement for the purposes of allowing the Authority to obtain such information as is necessary to fulfil the Authority's obligations to supply information for Parliamentary, Governmental, Judicial or other administrative purposes and/or to carry out an audit of the Contractor's compliance with this Agreement including all activities, performance, security and integrity in connection therewith.
- 4.11 On completion of the Project Period, the final payment in respect of costs properly incurred under the Agreement will be paid by the Authority to the Contractor within 30 days following the submission of a valid and undisputed invoice, provided that:
- 4.11.1. the Project has been completed to the reasonable satisfaction of the Authority;
 - 4.11.2. the reports required under Clauses 8, 13 and 15 have been submitted by the Contractor; and
 - 4.11.3. an agreement has been reached in respect of any items remaining for disposal.
- 4.12 If at any time an overpayment has been made to the Contractor for any reason whatsoever, the amount of such overpayment shall be taken into account in the assessing of any further payments, or shall be recoverable from the Contractor at the Authority's discretion.
- 4.13 The Contractor shall keep and maintain during the term of this Agreement and for a period of 6 years (or such other period as agreed between the Parties in writing) after termination or expiry, full and accurate records of the Project including:
- 4.13.1 information relating to all aspects of the Project;
 - 4.13.2 proper financial records;
 - 4.13.3 all expenditure reimbursed by the Authority; and 4.13.4 all payments made by the Authority; and
- the Contractor shall on request afford the Authority or the Authority's representatives such access to those records as may be required in connection with the Agreement.
- 4.14 Where the Contractor enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Agreement, it shall include a term in that Sub-Contract that requires payment to be made
- of undisputed sums by the Contractor to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice, as defined in the Sub-Contract.

5 SET OFF

- 5.1 The Authority may set off any amount due from the Contractor to the Authority or the Crown against any amount due to the Contractor under this Agreement or any other agreement between the Contractor and the Authority or the Crown.
- 5.2 The Contractor shall make any payments due to the Authority without any deduction whether by way of setoff, counterclaim, discount, abatement or otherwise, unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

6 VARIATION

- 6.1 If the Contractor seeks to vary any provision of the Agreement and/or the Project, the Contractor shall immediately inform the Authority in writing requesting a Variation to the Agreement, giving full details of

the justification for the request and giving proposals for the Variation to the Agreement. Upon receipt of such a request, the Authority may:

6.1.1 agree to vary the Agreement;

6.1.2 vary the Project in a manner which the Contractor agrees can be carried out within the Project Period and Approved Cost;

6.1.3 refuse the request; or

6.1.4 give notice of termination in accordance with Clause 17.

6.2 Where the Authority refuses the Contractor's request for a Variation, the Contractor shall continue in accordance with the existing terms of this Agreement.

6.3 Any Variation agreed under this Clause 6 shall be recorded in a Variation to Agreement Form and signed by both Parties.

7 STAFF APPOINTMENTS

7.1 The Contractor shall ensure that:

7.1.1 each of the Contractor's Staff is suitably qualified, adequately trained and capable of delivering the Project;

7.1.2 the terms and conditions of staff employed to provide services in connection with this Agreement contain provisions in respect of Intellectual Property which are compatible with the terms of this Agreement; and

7.1.3 any individuals employed by or having a contract for services with the Contractor relating to this Agreement shall comply with all of the Authority's rules, policies and procedures, as notified to the Contractor on or before the Commencement Date and as amended by notification to the Contractor from time to time.

8 PUBLICITY AND PUBLICATIONS

8.1 Except as required by law, any government or regulatory authority, any court or other authority of competent jurisdiction, during the Project Period and prior to the publication of the Results or Data or of matters arising from such Results or Data, the Contractor shall not, without the prior written consent of the Authority:

8.1.1 make any public announcements, release or otherwise publicise information relating to the Agreement or the Project in any way; or

8.1.2 use the Authority's name or logo in any promotion or marketing or announcements.

8.2 In the event that the Contractor fails to comply with Clause 8.1, the Authority reserves the right to terminate the Agreement for Default by notice in writing in accordance with Clause 17.4.

8.3 The Authority's Representative must be notified prior to any publication by the Contractor (whether in oral, written or other form), in particular any press announcement, of the Research, Results or Data or of matters arising from such Results or Data. One draft copy of the proposed publication shall be sent to the Authority's Representative at the same time as submission for publication or at least 28 days before the date intended for publication whichever is earlier

8.4 In the event that the Contractor fails to comply with Clause 8.3 the Authority reserves the right to terminate the Agreement by notice in writing with immediate effect.

8.5 Subject to the provisions of Clause 9, and notwithstanding the provisions of Clause 8, the Authority's Representative may, at any time after consultation with the Contractor, publish public summaries of the Material, Research and/or Results for any non-commercial purpose, including information about key Results attained and lessons learnt on the feasibility of the explored solution approaches and the potential for future deployment of solutions. Such publication and its timing shall require the consent of the Contractor where the information is not already in the public domain, and such consent shall not be unreasonably withheld or delayed. Specific details shall not be disclosed that:

- 8.5.1 are deemed by the Contractor to be against the legitimate commercial interest of the Contractor;
- 8.5.2 are contrary to the public interest;
- 8.5.3 would hinder application of the law; or
- 8.5.4 could distort fair competition between Contractor and the other contractors in the Competition

8.6 Any publication resulting from work carried out under this Agreement shall acknowledge the Authority's financial support and carry a disclaimer as the Authority may require or, in the absence of direction from the Authority, a notice as follows:

"This report is work commissioned by the Authority. The views expressed in this publication are those of the author(s) and not necessarily those of the Authority".

9 **CONFIDENTIALITY**

9.1 In respect of any Confidential Information that it may receive from the other Party, and subject always to the remainder of this Clause 9, the receiving Party undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the disclosing Party's prior written consent provided that:

9.1.1 the receiving Party shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date; and

9.1.2 nothing in this Agreement shall be construed as to prevent either Party from using data processing techniques, ideas, know-how and the like gained during the performance of the contract concerned in the furtherance of its normal business, to the extent that this does not result in a disclosure of Confidential Information or infringement of any valid Intellectual Property Rights of either Party or the unauthorised processing or release of any Personal Data.

9.2 Clause 9.1 shall not apply to any Confidential Information received by one Party from the other:

9.2.1 which is or becomes public knowledge (otherwise than by breach of this Clause);

9.2.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

9.2.3 which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

9.2.4 is independently developed without access to the Confidential Information as evidenced by receiving Party's written notes;

9.2.5 which is disclosed by the Authority on a confidential basis to the Crown; or

9.2.6 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure (including any requirements for disclosure under the FOIA or the EIRs) or as required by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible.

9.3 The obligations of each of the Parties contained in Clause 9 shall continue to apply after termination or expiry of this Agreement.

9.4 In the event that the Contractor fails to comply with Clause 9 during the term of this Agreement, the Authority reserves the right to terminate the Agreement by notice in writing for Default in accordance with Clause 17.4.

10 DATA PROCESSING

10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

10.2 To the extent the Contractor uses Personal Data during the performance of the Project whilst working with third parties, then:

10.2.1 any collection, handling, processing and use of Personal Data shall be treated as confidential at all times;

10.2.2 the Contractor shall at all times be responsible for ensuring that all Personal Data (including Personal Data in any electronic format) is stored securely for not less than 6 years from the date of termination of this Agreement and shall take appropriate measures to ensure the security of such Personal Data and guard against unauthorised access thereto or disclosure thereof or loss or destruction while in its custody; and

10.2.3 Personal Data shall not be made available to anyone other than those employed directly on the Project by the Contractor, to the extent that they need access to such information for the performance of their duties.

10.3 The Contractor shall fully indemnify and hold harmless the Authority, its employees and agents against all liabilities, losses, costs, charges and expenses incurred as a result of responding to and managing any claims, demands, actions and proceedings made or brought against the Authority by any person arising from the loss, unauthorised disclosure of Personal Data by the Contractor, or any Sub-Contractor, servant or agent of the Contractor or any person within the control of the Contractor.

10.4 No information which would lead to the identification of an individual shall be included in any publications without the prior agreement in writing of the individual concerned. No mention shall be made of individual officers of the Authority, nor shall information be included which might lead to their identification, without the prior agreement in writing of the Authority.

10.5 The Authority shall not (in the ordinary course of business in the absence of circumstances including, but not limited to, the prevention and detection of crime including fraud) be entitled to inspect, take or be supplied with copies of any Personal Data relating to third parties obtained in connection with the Project other than in an anonymised form. The Contractor shall ensure that all such Personal Data is anonymised as and when it is obtained and that the key to personal identities of all persons to whom the Personal Data relates is kept in a separate and secure place.

10.6 Subject to the provisions of Clause 10.5, the Authority reserves the right to have access to and to use Data compiled during the course of the work and will respect existing guidance on confidentiality of any Data which it obtains.

10.7 Clause removed - Not Applicable

10.8 The provisions of this clause shall apply during the term of this Agreement and indefinitely after its expiry or termination.

11 ETHICS

The Contractor will ensure that work in any way connected with this Project is conducted in accordance with the Authority's guidelines as may be issued, or referred to, from time to time by the Authority. Copies of which are to be made available to the Contractor as appropriate or on reasonable request.

12 MONITORING AND REPORTING

12.1 Progress of the Project will be reviewed periodically by the Authority's Representative against the specifications detailed in Section 3.

12.2 The Contractor shall provide an interim report when reasonably required to do so by the Authority. The interim report shall be in a form and otherwise in compliance with the guidance notes issued by the Authority's Representative as amended from time to time and shall detail all Data, methods, Results and provisional conclusions together with management information and any other information relating to the Project.

12.3 During the Project Period the Contractor shall provide verbal or written reports as reasonably required by the Authority on any aspect of the Project.

12.4 During the term of this Agreement, the Contractor will allow its facilities, procedures and records to be accessed by the Authority (acting by itself or through its Representatives) and/or its auditors as may reasonably be required to verify that the Project and/or Services are being delivered and all obligations of the Contractor are being performed in accordance with the terms of this Agreement.

12.5 The Authority shall use its reasonable endeavours to ensure that the conduct of any audit undertaken in accordance with Clause 12.4 does not unreasonably disrupt the Contractor or delay the delivery of the Project and/or Services.

13 FINAL REPORT AND EVALUATION

13.1 The Contractor shall provide a draft final report on the Project, in the approved language, within 14 days of the end of the Project Period or, if earlier, the date of termination or expiry of this Agreement. The draft final report shall be in a form which is in compliance with the guidance notes issued by the Authority's Representative as amended from time to time or as otherwise required by the Authority's Representative and shall include the Data, methods, Results and final conclusions together with management information and any other information relating to the Project up to the Completion Date.

13.2 Subject to Clause 12.5, the Authority's Representative is entitled to carry out a visit to the Contractor's premises at any time for the purpose of due diligence and evaluation in respect of the Project.

14 INTELLECTUAL PROPERTY RIGHTS

14.1 All Background Intellectual Property used or supplied under this Agreement in connection with the Project shall remain the property of the Party introducing the same and nothing contained in this Agreement or any licence agreement pursuant to the Project shall affect the rights of either Party in its Background Intellectual Property.

14.2 Subject to Clauses 14.3 and 14.4, the Intellectual Property rights generated from the Project ("**Foreground IP**") shall belong to the Contractor. Unless otherwise agreed in writing, the Parties shall record all Background IP in Schedule B and shall keep Schedule C updated during the term of this Agreement.

14.3 The Contractor hereby grants:

14.3.1 to the Authority, a UK wide irrevocable, royalty-free, non-exclusive licence to use (including but not limited to copying or modifying) the Foreground IP, together with any Background IP supplied by the Contractor during the Project that is required to use the Foreground IP, at a fair and reasonable market price;

14.3.2 to any third party within the UK upon the Authority's written request, a non-exclusive, nonsublicensable UK wide sub-licence to use the Foreground IP at a fair and reasonable market price; and

14.3.3 to the Authority, a UK wide irrevocable, royalty-free, non-exclusive licence, together with the right to grant sub-licences, to use (including but not limited to copying or modifying) or publish any Data and Results arising from the Project;

and the rights granted in accordance with Clauses 14.3.1 and 14.3.3 shall include the right of the Authority to grant a licence, with the right to sub-license, to the Crown and the Authority shall inform the Contractor when the Authority exercises this right.

14.4 Notwithstanding the Contractor's ownership of the Foreground IP:

14.4.1 if, following the Authority's written request, the Contractor refuses to grant a limited licence to a third party within the UK pursuant to Clause 14.3.2, then the Authority shall have a right to grant a sub-licence to such third party and the Contractor acknowledges and agrees that such sublicensing by the Authority shall not constitute a breach of this Agreement;

14.4.2 the Contractor shall not assign or transfer the Foreground IP to any third party without the prior written approval of the Authority, not to be unreasonably delayed or withheld; and

14.4.3 if the Contractor assigns or transfers the Foreground IP, it shall procure that the assignee or transferee shall enter into such instrument as necessary to comply with the Contractor's obligations set out in this Agreement, and particularly those contained in Clauses 8, 14 and 15.

14.5 The provisions of this Clause 14 shall survive termination or expiry of this Agreement.

15 EXPLOITATION OF FOREGROUND IP AND RESULTS

15.1 The Contractor shall promptly provide the Authority with the following notifications and copies:

15.1.1 a notification of any Results which are capable of exploitation whether patentable or not;

15.1.2 a notification of the first application for patent or like protection (wherever made) for an invention comprising Foreground IPR, which identifies the country and the application number, together with a copy of the application;

15.1.3 a notification of the first application for registration of a design (wherever made) for a design generated in the performance of work under this Agreement, which identifies the country and the application number, together with a copy of the application; and

15.1.4 a notification of the grant of any patent or like protection effective in the UK secured for an invention comprising Foreground IPR or the grant of registered design protection effective in the UK for a design generated in the performance of work under this Agreement, which gives identification details for the rights granted.

15.2 The Contractor shall, as appropriate, devise, publish, implement and maintain procedures for the management of Intellectual Property in the Results and in particular, but without limitation, shall use all reasonable endeavours to ensure that:

15.2.1 the Results of the Project are identified, recorded and carefully distinguished from the outputs of other research;

15.2.2 prior to any publication of the Results of the Project, patentable inventions arising from the Results are identified, duly considered for patentability and, where it is reasonable so to do, patent applications in respect thereof are filed at the British or European Patent Office; and

15.2.3 all such patent applications are diligently executed having regard to all relevant circumstances.

- 15.3 The Contractor shall permit the Authority to monitor the operation and effectiveness of the Contractor's procedures for the management of Intellectual Property in such a way as the Authority considers reasonably necessary.
- 15.4 Consistent with the good management of Intellectual Property and the agreement of the Authority, the Contractor shall use its best endeavours to:
- 15.4.1 promote the dissemination of the Results of the Project; and
 - 15.4.2 where reasonable and practicable, exploit commercially such Results to generate either capital or revenue or both.
- 15.5 The Contractor may exploit commercially any publications arising from the Project.
- 15.6 If within 3 years of its creation, any Intellectual Property in the Results and/or Foreground IP has not been commercially exploited by the Contractor, and the Contractor is not using its best endeavours to do so, then, following prior consultation between the Parties to discuss the reasons for non-exploitation, the Contractor shall on written request by the Authority promptly assign the Intellectual Property Rights in the Results and/or Foreground IP to the Authority. Each party shall bear its own costs in such assignment.

16 FORCE MAJEURE

- 16.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement to the extent such delay or failure results from a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under this Agreement which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.
- 16.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 16.3 As soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and agree a reasonable extension of time for the Affected Party to perform such obligations.
- 16.4 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event
- 16.5 The Affected Party shall notify the other Party in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement. Following such notification, this Agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the Parties.
- 16.6 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance for a continuous period of 3 months, the Party not affected by the Force Majeure Event may terminate this agreement by giving 30 days' written notice to the Affected Party.

17 TERMINATION UPON OCCURRENCE OF EVENTS

- 17.1 Without prejudice to any other provision of the Agreement, this Agreement may be terminated by either Party giving 3 months notice in writing to the other, unless the time remaining to the end of the contract is less than 3 months, in which case the notification time shall be a period equal to all remaining time to the end of the contract. Should the option to terminate under this Clause 17.1 be exercised by the Authority, it shall pay the Contractor for any actual loss reasonably and unavoidably incurred by reason or in

consequence of the termination provided that the Contractor takes all immediate and reasonable steps to minimise the loss.

17.2 With regards to Clause 17.1, the Authority will not pay any sum which, when taken together with any sums paid or due or becoming due to the Contractor under this Agreement, will exceed such total sums as would have been payable under this Agreement.

17.3 The Authority may at any time and from time to time by notice in writing terminate this Agreement without liability for any damage, loss or expenses arising as a result of or in connection with such termination if there is a change of control (as defined by section 1124 of the Corporation Tax Act 2010) in the Contractor. The Authority shall only be permitted to exercise its rights pursuant to this Clause 17.3 within 6 months of the date on which the Contractor informs the Authority (by written notice) of such change of control or on which the Authority otherwise becomes aware of the change of control. The Authority shall not be permitted to exercise this right where it has agreed in advance in writing to the particular change of control and such change of control takes place as proposed. The Contractor shall notify the Authority within 2 weeks of any change of control taking place.

17.4 The Authority may at any time by notice in writing terminate this Agreement without liability for any damage, loss or expenses arising as a result of or in connection with such termination if:

17.4.1 any approvals consent or licences required under this Agreement are not given unconditionally within 6 months of the commencement of the Project Period;

17.4.2 the Contractor is subject to an Insolvency Event;

17.4.3 the Contractor is in Default under this Agreement and if:

17.4.3.1 the Default is capable of remedy and the Contractor shall have failed to remedy the Default within 30 days of written notice being sent to the Contractor specifying the Default and requiring its remedy; or

17.4.3.2 the Default is not capable of remedy;

17.4.4 where any provision of this Agreement other than as previously specified in the preceding provisions of this Clause 17 expressly entitles the Authority to terminate this Agreement.

17.5 Termination of this Agreement by the Authority under the preceding provisions of this Clause 17 shall (at the option of the Authority) terminate this Agreement with immediate effect as from the date of service of the notice of that termination or from the expiry of a period (not exceeding 6 months) specified in that notice.

18 CONSEQUENCE OF TERMINATION

18.1 Termination of this Agreement, however caused, shall not:

18.1.1 release the Contractor from any duty or obligation of confidence which falls on it, its servants, agents, employees or former employees under this Agreement or under the general law governing confidential information;

18.1.2 prejudice or affect any rights, action or remedy which shall have accrued before termination or shall accrue thereafter to any Party;

18.1.3 affect the continuing obligations of the parties under this Agreement.

19 EQUIPMENT

19.1 The Contractor shall take all practical steps to purchase all materials and equipment at a fair and reasonable price. The Authority may inspect the original quotations and invoices issued to the Contractor for equipment purchased in connection with the Project and may take steps to recover any funds provided for the purchase if the Contractor does not provide this documentation on request.

19.2 At the end of the Project Period, and after the final presentation of the Results of the Project, all equipment purchased for use on the Project with funds provided by the Authority shall become the property of the Contractor.

20 WARRANTIES

20.1 The Contractor warrants and represents that:

20.1.1 the Contractor has full capacity and authority and all necessary licences, permits and consents to enter into and perform this Agreement;

20.1.2 this Agreement is executed by a duly authorised representative of the Contractor;

20.1.3 there are no actions, suits or proceedings pending or, to the Contractor's knowledge, threatened against or affecting the Contractor before any court or administrative body or tribunal that might affect the ability of the Contractor to meet and carry out its obligations under this Agreement;

20.1.4 the Project will be carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;

20.1.5 the Contractor will discharge its obligations hereunder with all due skill, care and diligence including, but not limited to, good industry practice and (without limiting the generality of the foregoing) in accordance with its own established internal procedures; and

20.1.6 the provision of the Project and the Authority's use thereof shall not infringe any Intellectual Property Rights of any third party.

21 INDEMNITY AND INSURANCE

21.1 During the term of the Agreement, the Contractor shall obtain and maintain in force, with a reputable insurance company:

21.1.1 employer's liability insurance (with a minimum cover of not less than £5 million per claim);

21.1.2 professional indemnity insurance (with a minimum cover of not less than £2 million per claim); and

21.1.3 public liability insurance (with a minimum cover of not less than £2 million per claim);

to cover liabilities that may arise under or in connection with the Agreement and shall, on the Authority's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

21.2 Neither Party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

21.3 Nothing in this Clause 21 shall limit the Authority's payment obligations under this Agreement.

21.4 Nothing in this Agreement shall limit the Contractor's liability under Clause 21.11. 21.5 Nothing in this Agreement limits any liability which cannot legally be limited, including but not limited to liability for:

21.5.1.1 death or personal injury caused by negligence;

21.5.1.2 fraud or fraudulent misrepresentation; or

21.5.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) any other liability which cannot be limited or excluded by applicable law.

- 21.6 Subject to Clause 21.1, Clause 21.2 and Clause 21.4, the Contractor's total liability to the Authority:
- 21.6.1 for damage to property caused by the negligence of the Contractor's Staff and its agents in connection with this Agreement shall not exceed £2 million for any one event or series of connected events;
 - 21.6.2 for loss arising from the Contractor's failure to comply with its data processing obligations under Clause 10 (Data protection) shall not exceed £2 million; and
 - 21.6.3 for all other loss or damage which does not fall within Clause 21.6.1 or 21.6.2 shall not exceed £[the value of the contract].
- 21.7 The Authority's total liability to the Contractor under this Agreement shall in no event exceed £[the value of the contract].
- 21.8 If the Contractor has delivered the Project and/or Services that do not comply with the [specification as set out in Section 3] by the applicable dates then, without limiting or affecting other rights or remedies available to it, but subject to the limits in Clause 21.6, the Authority shall have one or more of the following rights:
- 21.8.1 to terminate the Agreement with immediate effect by giving written notice to the Contractor;
 - 21.8.2 to return the Deliverables to the Contractor at the Contractor's own risk and expense;
 - 21.8.3 to require the Contractor to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
 - 21.8.4 to refuse to accept any subsequent performance of the Services which the Contractor attempts to make;
 - 21.8.5 to recover from the Contractor any expenditure incurred by the Authority in obtaining substitute services or deliverables from a third party; and
 - 21.8.6 to claim damages for any additional costs, loss or expenses incurred by the Authority arising from the Contractor's failure to comply with the [specification as set out in Section 3].
- 21.9 These Conditions shall extend to any substituted or remedial services provided by the Contractor.
- 21.10 The Authority's rights and remedies under the Agreement are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.
- 21.11 The Contractor shall indemnify the Authority against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Authority arising out of or in connection with:
- 21.11.1 any claim brought against the Authority for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services; and
 - 21.11.2 any claim made against the Authority by a third party arising out of, or in connection with, the supply of the Services.
- 21.12 Clause 21.11 shall survive termination of the Agreement.
- 21.13 Save as expressly stated elsewhere in this Agreement, neither Party shall be liable to the other for any indirect, special or consequential loss or any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).

22 **ASSIGNMENT**

- 22.1 The Contractor shall not sub-contract, transfer or assign the whole or any part of this Agreement without the prior written consent of the Authority and such consent may be subject to any additional conditions as the Authority sees fit to impose.
- 22.2 The Contractor shall be responsible for the acts and omissions of the Sub-contractors as though they were its own.

23 **SEVERABILITY**

- 23.1 If any provision of this Agreement (or part of any provision) is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision (or part) shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 23.2 In the event that any deletion under Clause 23.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Parties shall immediately commence good faith negotiations to remedy such invalidity.

24 **WAIVER**

- 24.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 24.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 24.3 Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights and remedies provided by law, in equity or otherwise.

25 **PREVENTION OF BRIBERY**

- 25.1 The Contractor represents and warrants that neither it, nor any of the Contractor's Staff:
- 25.1.1 has committed a Prohibited Act;
 - 25.1.2 to the best of its knowledge has been or is subject to an investigation, inquiry or enforcement proceedings by a governmental, administrative or regulatory body regarding any Prohibited Act or alleged Prohibited Act; or
 - 25.1.3 has been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 25.2 The Contractor shall promptly notify the Authority if, at any time during the Term, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in Clause 25.1 at the relevant time.
- 25.3 The Contractor shall (and shall procure that the Contractor's Staff shall) during the Term:
- 25.3.1 not commit a Prohibited Act;
 - 25.3.2 not do or omit to do anything that would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements;
 - 25.3.3 have and maintain in place its own policies and procedures to ensure compliance with the Relevant Requirements and prevent occurrence of a Prohibited Act; and

25.3.4 notify the Authority (in writing) if it becomes aware of any breach of Clause 25.3.1 or Clause 25.3.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with performance of this agreement.

25.4 The Contractor shall maintain appropriate and up to date records showing all payments made by the Contractor in connection with this agreement and the steps taken to comply with its obligations under Clause 25.3.

25.5 The Contractor shall allow the Authority and its third party representatives access to these records within 5 workings days of a written request from the Authority or its third party representatives.

25.6 If the Contractor is in default under this Clause 25 the Authority may by notice:

25.6.1 require the Contractor to remove from performance of this agreement any Contractor Personnel whose acts or omissions have caused the default; or

25.6.2 suspend payments and require the Contractor to suspend all work on the Project until any investigation is concluded; or

25.6.3 immediately terminate this agreement.

25.7 To the extent permitted by law, any notice served by the Authority under Clause 25.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this agreement shall terminate).

26 DISPUTE RESOLUTION

26.1 Any dispute between the Parties arising out of or in connection with this Agreement (other than in relation to the payment of any money) shall in the first instance be referred to the Contractor's Project Manager (as defined in Section 3) and the Authority's Contract Manager (as defined in Section 3) for resolution. The Parties agree to work together in good faith to resolve any such dispute.

26.2 If within 14 days of the meeting of the Contractor's Project Manager and the Authority's Contract Manager the dispute has not been resolved, the Parties agree to escalate the dispute to a Director of the Contractor and the appropriate Officer of the Authority or such other person as the Authority sees fit and who shall have responsibility to settle such dispute on behalf of the Authority. The Director of the Contractor and the Officer of the Authority shall meet within 7 days of the reference to them of any dispute and shall work together in good faith to resolve the dispute.

26.3 If within 14 days after such meeting the dispute has not been resolved, the dispute may be referred by either Party for mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. To initiate the mediation, a Party must serve notice in writing ("**Mediation Notice**") requesting mediation. The Parties shall agree the joint appointment of a Mediator within 14 days of the Mediation Notice. Unless otherwise agreed between the Parties, the mediation will start not later than [30] days after the date of the Mediation Notice. The fee for the appointed Mediator shall be shared equally between the Parties and each Party will bear its own costs and expenses of its participation in the mediation..

26.4 Nothing in Clauses 26.1, 26.2 or 26.3 shall preclude either Party from commencing proceedings.

26.5 If either Party refuses or fails to participate in the mediation process or if a resolution of the dispute is not reached within [60] days from the date of the Mediation Notice, either Party may refer the dispute to be finally resolved by arbitration under such arbitration rules as the Parties may agree or, in default of agreement, in accordance with the Rules of the London Court of International Arbitration (LCIA), which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of the arbitration shall be London and the language used in the arbitral

proceedings shall be English. The governing law of the arbitration agreement shall be the substantive law of England and Wales.

27 NOTICES

27.1 Any notice given in connection with this Agreement shall be in writing [marked for the attention of the Party's Authorised Representative] and shall be:

27.1.1 delivered by hand or by pre-paid registered post at the relevant Party's address as set out in Section 5, or at another address as may be notified by a Party in writing; or

27.1.2 sent by email to the email address set out in Section 5 (or an address substituted in writing by the party to be served).

27.2 Any notice shall be deemed to have been received:

27.2.1 if delivered by hand, at the time the notice is left at the proper address; or

27.2.2 in the case of postal service, the date falling 3 Working Days after the date on which the notice was posted; or

27.2.3 if sent by email, at the time of transmission, or if this time falls outside Working Hours in the place of receipt, when Working Hours resume.

28 RELATIONSHIP OF THE PARTIES

Nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

29 FREEDOM OF INFORMATION ACT 2000

29.1 The Contractor acknowledges and agrees that the Authority is subject to the requirements of the FOIA and the EIRs. The Contractor shall provide all necessary assistance to and fully cooperate with the Authority to enable the Authority to comply with its obligations under that legislation.

29.2 The Contractor shall and shall procure that its Sub-contractors shall:

29.2.1 transfer any Request for Information from any third party to the Authority as soon as practicable and in any event within 3 Working days of receiving a Request for Information;

29.2.2 provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within 3 Working Days (or such other period as the Authority may specify) of the Authority requesting that Information;

29.2.3 provide all necessary assistance and co-operation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and/or the EIRs;

29.2.4 not oppose the disclosure of this Agreement or information relating to this Agreement if the Authority in its absolute discretion determines it is necessary to do so in order to comply with its obligations, save that the Authority shall have due regard for the concerns of the Contractor and may therefore redact some parts of the Agreement as the Authority deems necessary; and

29.2.5 not respond directly to a Request for Information unless expressly authorised in writing to do so by the Authority.

29.3 The Authority shall be responsible for determining at its absolute discretion whether any Commercially Sensitive Information and/or any other Information:

29.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or

29.3.2 is to be disclosed in response to a Request for Information.

29.4 Notwithstanding the provisions of Clause 9, the Contractor acknowledges that the Authority may be obliged under the FOIA or the EIRs to disclose Confidential Information:

29.4.1 without consulting with the Contractor, or

29.4.2 following consultation with the Contractor and having taken its views into account.

29.5 The Contractor shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure for 6 years and shall permit the Authority to inspect such records upon reasonable request.

30 UNLAWFUL DISCRIMINATION AND HUMAN RIGHTS

30.1 The Contractor shall (and shall use all reasonable endeavours to procure that the Contractor's Staff shall) comply at all times with the Equality Act 2010 ("**EA**") and the Human Rights Act 1998 ("**HRA**").

30.2 The Contractor shall notify the Authority immediately of any investigation of or proceedings against the Contractor under the EA.

30.3 The Contractor shall indemnify the Authority against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by the Authority arising out of or in connection with any investigation conducted or any proceedings brought under the EA due directly or indirectly to any act or omission by the Contractor, its agents, employees or sub-contractors.

30.4 The Contractor shall (and shall use all reasonable endeavours to procure that the Contractor's Staff shall) undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the HRA.

30.5 The Contractor shall indemnify and keep indemnified the Authority against any and all losses, liabilities, costs (including but not limited to legal fees), proceedings and damages whatsoever arising out of or in connection with any breach by the Contractor of its obligations under Clause 30.

31 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a Party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

32 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement.

Nothing in this clause shall exclude any liability in respect of any fraudulent misrepresentation or fraudulent concealment.

33 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each party has provided to the other at least one executed counterpart.

34 GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England & Wales. The Courts of England & Wales shall have exclusive jurisdiction to settle any dispute or claim (whether

contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

SCHEDULE A VARIATION TO AGREEMENT FORM

Project Title :

Project Application No:

Contract between the [] ("the Authority") and

[] ("the Contractor") dated [] ("the

Contract")

Variation No:

Date:

1. Capitalised words and expressions in this Variation shall have the meanings given to them in the Contract.

2. The Contract is varied as follows:

[]

3. This Variation takes effect on [].

4. The Contract, including any previous Variations, shall remain effective and unaltered except as expressly amended by this Variation.

SIGNED:

For and on behalf of: The Authority

Signature:

Full Name:

Position:

Date:

For and on behalf of: The Contractor

Signature:

Full Name:

Position:

Date

SCHEDULE B

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RECORD OF BACKGROUND IP – To be recorded by contractor prior to project start



SCHEDULE C RECORD OF FOREGROUND IP To be recorded throughout the duration of the project and prior to project completion date

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SECTION 3

PROJECT CON_26194

Project Title: Graffinity -- AI-Supported Concept Mapping for Schools
Graffinity aims to transform formative assessment in UK schools by integrating cutting-edge human and artificial intelligence into the teaching process. This tool is specifically designed for teachers and educators, enabling them to track and assess student progress and give feedback in real-time. By using the Department for Education's new Content Store in combination with large language models (LLMs), and teachers' materials, Graffinity will deliver personalised, real-time feedback that is fully aligned with the UK National Curriculum.

The AI-supported concept mapping interface will help teachers engage with a diverse spectrum of learners and more effectively identify gaps in student understanding and adjust their teaching strategies and feedback accordingly. The accessible, user-friendly visual interface will simplify engagement with the tool and make learning more inclusive.

Graffinity is being developed in collaboration with UCL's Centre of Digital Innovation and world-leading learning scientists from UCL's Institute of Education (IOE). The initial focus of the project will be on Key Stage 4 students, but the tool's adaptable nature means it can be expanded to support all parts of the curriculum.

Key features of Graffinity include:

- Knowledge Graph improved LLM Feedback: Provides curriculum-aligned feedback, offering teachers the ability to respond to student needs in a highly personalised manner.
- Interactive Concept Mapping: Enables teachers to track student critical thinking progress over time.
- Personalisation and Adaptive Learning: The tool continuously improves its feedback through ongoing use by both teachers and students, creating a personalised learning experience that adapts to individual needs.
- Real-Time Data and Analytics: Offers real-time engagement metrics and insights to help teachers adjust lesson plans and teaching strategies in real time, based on student interaction and progress.
-

In addition to benefiting students, Graffinity will contribute to teachers' continuous professional development (CPD) by showing how their instructional methods and feedback improve student outcomes. Teachers can use these insights to refine their approaches to formative assessment.

By the end of the project, we aim to deliver a fully functional prototype of Graffinity, demonstrating its potential to save teachers time while significantly improving learning outcomes for students. Upon completion, the platform will be made available to schools across England, and the Department for Education will have access to the technology on a royalty-

free basis, ensuring its widespread use. This makes Graffinity a scalable, impactful tool with long-term benefits for the education sector.

Please note that this section must contain details of following defined terms:
Commencement Date **Monday 25th November 2024** Completion Date **Wednesday 30th April 2025**
Authority's Contract Manager(s) [redacted] & [redacted]
Contractor's Project Manager [redacted]

SECTION 4

FINANCIAL ARRANGEMENTS

PAYMENT SCHEDULE

Subject to the Contractor achieving the milestones, and submission of a valid and undisputed invoice in accordance with Clause 4, it is intended that the indicated amounts will be paid by the Authority to the Contractor within 30 days of a valid and undisputed invoice..

Maximum Total Contract Value (inclusive of VAT):

[illegible]

[illegible]

SECTION 4a

Key Performance Indicators

Specification

As detailed in the competition brief’s scope section, participants must develop a tool utilizing a quality-assured library of educational content and code optimized for large language models, known as the Education Content Store. This store aims to provide the essential content and data required for high-quality generative AI tools.

Ref	Service Level Performance Criterion and Key Performance Indicator.	Service Level Performance Measure.	Service Level Threshold.	Buyer redress for Failure to provide Services at or above Service Levels
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KPI 1	Successful delivery of milestones specified in applications. We will explore the milestones and key SMART objectives suppliers have set, to determine if they are on track for delivery. We will use the update reports from each supplier to establish further whether the milestones are being met.	All parts of the milestones are met as set out in the application, subject to any changes as formally agreed by the policy team. We will also be reviewing the supplier's financial management of the project.	Good - The Supplier has delivered the milestones in line with the criteria and timescales specified in the application subject to any changes in requirements as formally agreed by the policy team. Approaching Target - The Supplier has failed to deliver one milestone in line with the criteria and timescales specified in the application subject to any changes in requirements as formally agreed by the policy team. Requires Improvement - The Supplier	The Authority (DfE) will implement measures as outlined in section 4 of the contract.
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Continuous monitoring and evaluation of this program, including the impact of the Education Content Store on the tools developed, is crucial to ensure alignment with the Department for Education's (DfE) objectives. The results of these evaluations will confirm the program's effectiveness in meeting the DfE's strategy and guide decisions on resource allocation, project selection, and future public funding.

Therefore, as a funding condition, all recipients must participate in the following evaluation activities organized by our subcontractors, Faculty AI and ImpactEd: • User surveys

- Interviews
- Focus groups (as agreed with the policy team)
- Case studies (as agreed with the policy team)
- Hackathons

			has failed to deliver two milestones in line with the criteria and timescales specified in the application subject to any changes in requirements as formally agreed by the policy team. Inadequate - The Supplier has failed to deliver three or more milestones in line with the criteria and timescales specified in the application subject to any changes in requirements as formally agreed by the policy team.	
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KPI 2	Accurate and timely reporting. On a monthly basis, produce an update report utilising the template provided by the policy team. The report must provide a comprehensive update on performance towards agreed milestones, including any blockers or risks to delivery. It must be completed and delivered on time, as agreed with the policy team at the start of the project.	The supplier will supply an update report to the DfE Contract Manager in line with the requirements set out. Update Report is at minimum reporting against: • Performance against agreed milestones. • Risks and issues. • Value added or delivered within in service period. • Social value (i.e. delivery of any of the agreed commitments as part of the social value commitment response to Q13&14 in the application). • Adherence to contract and legal obligations relating to IP and data protection. • Ongoing emissions monitoring & summary of water & CO2 impact.	Good – Accurate and complete update report submitted by the agreed date to the DfE contract manager. Approaching Target – Update report submitted on time but containing minor inaccuracies or omissions. Requires improvement – Update report submitted between one and five working days late subject to an extension agreed with the policy team and/or containing significant inaccuracies or omissions. Inadequate – Update report not submitted within 5 working days of the due date subject to any extensions as agreed with the policy team.	If service level threshold has not been met, we will implement more frequent update reporting.
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KPI 3	Attendance of monthly contract management meetings as agreed with the	The supplier's designated contact/project manager will attend these meetings with the	Good – Attendance at all agreed contract management meetings by the designated contact on behalf of	If service level threshold has not been met,

	policy team. In this meeting we will consider and discuss the supplier's update report.	representative from the policy team. A deputy may attend if agreed with the policy team.	the supplier (or an appropriate deputy as agreed with policy team). Where a meeting is rescheduled or cancelled₁ (as deemed not required) and this is approved by the policy team₁ this threshold will not be affected. Approaching Target – Supplier does not attend one agreed contract management meeting. Where a meeting is rescheduled or cancelled (as deemed not required) and this is approved by the policy team, this threshold will not be affected. Requires improvement – Supplier does not attend two agreed contract management meetings. Where a meeting is rescheduled or cancelled (as deemed not required) and this is approved by the policy team, this threshold will not be affected Inadequate – Supplier does not attend three or more contract management meetings. Where a meeting is rescheduled or cancelled (as deemed not required) and this is approved by the policy team, this	we will implement more frequent contract management meetings.
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			threshold will not be affected.	
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KPI 4	Participation in Education Content Store evaluation activities (run by ImpactEd and FacultyAI) including: • Participation in user	The supplier will participate in these activities as agreed with the policy team.	Good – Participation in all activities as agreed with the policy team. Requires improvement – Supplier has	If service level threshold has not been met, we will implement more frequent update reporting.
	- surveys • Participations in interviews/focus groups • Participation in Hackathon events.		failed to attend a reasonable number of activities.	

SECTION 5

KEY STAFF

[NAME & FULL POSTAL ADDRESS]

[The Contractor's representative]

[REDACTED]

[NAME & ADDRESS]

[NAME & ADDRESS]

[NAME & ADDRESS]

[The Authority's representative]

[REDACTED]

SECTION 6

DOCUMENTS RELIED UPON

The Parties acknowledge and agree that the Authority has relied upon, and the Contractor shall undertake the Services in accordance with, the following documents:

All documents submitted to (IFS), including but not limited to:

- (i) the Contractor's application;
- (ii) the competition brief; and

[REDACTED]

Classification:

[REDACTED]

